

REMARKS

Applicant respectfully requests further examination and reconsideration in view of the above amendments and the arguments set forth fully below. In the Office Action mailed March 22, 2006, Claims 1-8 have been rejected. In response, the Applicant has amended claim 1 and submitted the following remarks. Accordingly, Claims 1-8 are pending. Favorable reconsideration is respectfully requested in view of the remarks below.

Rejections Under 35 U.S.C. §102

Claims 1-4 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,442,301 to Edgar (hereinafter Edgar). The Applicant respectfully disagrees with this rejection.

Edgar teaches a method and apparatus for removing the effects of surface and near surface image storage media defects from a scanned image using an infrared record as a norming control (Edgar, abstract). Referring to Fig. 3 of Edgar, Edgar accomplishes this by first setting the sequence of the array to zero by step 80 to being the counting process. Next time the image width and height are defined by step 82. As the levels of the array are increased, the width and height of the image are calculated as function of the levels in the array at step 84. This process is repeated as long as the width and height of the current level are not both equal to one as check by condition 86. When the width and height of the image are both equivalent to one at decision step 88 thereby indicating a pyramid level consisting of a single pixel, the counting of the number of levels is completed and set by step 90. With this step 90, variable initialization is complete (Edgar, Fig. 3, column 8, lines 7-24).

In contrast to the teachings of Edgar, the down sampling apparatus of the present invention includes an input for receiving a first data signal including physiological data at a first sampled rate and a converter configured to sample the signal at a second rate to generate a second data signal, wherein the converters further configured to calculate a

phase error for each data point included in the second data signal. As described above, Edgar does not teach a first data signal sampled at a first rate, wherein the first data signal includes physiological data of a patient, and a converter for sampling the first data signal at a second rate to generate therefrom a second data signal having data points such that the position of the data points relative one another is approximately the same position as the data points had relative to other another in the first data signal. Furthermore, Edgar does not teach the converter further configured to calculate a phase error for each data point included in the second data signal.

The independent Claim 1 is directed to an apparatus comprising an input for receiving a first data signal sampled at a first rate, the first data signal including physiological data of a patient, and a converter for sampling the first data signal at a second rate generate there from a second data signal having data point such that the position of the data point relative to one another is approximately the same position as the data points had relative to one another in the first data signal. As described above, Edgar does not teach receiving nor converting a data signal including physiological data of a patient. Following, Edgar then does not teach a converter for sampling such data signals. Furthermore, Edgar does not teach a converter further configured to calculate a phase error for each data point included in the second data signal. For at least these reasons, the independent claim 1 is allowable over the teachings of Edgar.

Claims 2-4 dependent upon the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Edgar. Accordingly Claims 2-4 are also allowable as being dependent upon an allowable base claim.

Rejections Under 35 U.S.C. §103

Claims 5-8 have been rejected under 35 U.S.C. §103(a) has being unpatentable over Edgar. The applicant respectfully disagrees with this rejection. Claims 5-8 are dependent upon independent Claim 1. As discussed above, the independent Claim 1 is

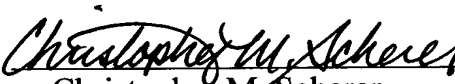
Application No. 10/760,432
Amendment Dated April 25, 2006
Reply to Office Action of March 22, 2006

allowable over the teachings of Edgar. Accordingly, Claims 5-8 are also allowable as being dependent upon an allowable base claim.

For these reasons, Applicant respectfully submits that all of the claims are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at 414-271-7590 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL, LLP

By 
Christopher M. Scherer
Reg. No. 50,655

Andrus, Sceales, Starke & Sawall, LLP
100 East Wisconsin Avenue, Suite 1100
Milwaukee, Wisconsin 53202
Telephone: (414) 271-7590
Facsimile: (414) 271-5770